

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION**

**JOHN GOFF, et al.,**

**Plaintiffs,**

**v.**

**PHOENIX-DURANGO, LLC, et al.,**

**Defendants/  
Counter Claim Plaintiffs,**

**v.**

**JOHN GOFF, et al.,**

**Counterclaim Defendants.**

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**CASE NO. 2:06-CV-389-SRW**

**ANSWER OF COUNTERCLAIM DEFENDANT  
ATKINSON, HASKINS, NELLIS, BRITTINGHAM, GLADD & CARWILE**

COMES NOW the Counterclaim Defendant, Atkinson, Haskins, Nellis, Brittingham, Gladd & Carwile, (Atkinson), by and through its undersigned counsel, and in Answer to Counterclaim Plaintiff Phoenix-Durango, LLC's Counterclaim, states as follows:

1. Atkinson generally denies all material allegations of the Counterclaim, and demands strict proof thereof.
2. The Counterclaim fails to state a claim upon which relief may be granted against Atkinson.

**AFFIRMATIVE DEFENSES**

3. Atkinson states that if the subject property is judicially foreclosed, then Atkinson is entitled to be paid for the amount of its lien on the subject property. Atkinson affirmatively states that it holds a lien on the subject property, in the amount of \$75,974.77, and is entitled to

be paid from any judicial foreclosure and sale thereof.

4. Atkinson reserves the right to plead additional claims and defenses if and when they become appropriate during this action.

Respectfully submitted this the 20<sup>th</sup> day of June, 2006.

/s/David C. Hilyer  
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Attorneys for Defendant Atkinson, Haskins, Nellis,  
Brittingham, Gladd & Carwile

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**CERTIFICATE OF SERVICE**

I hereby certify that I have served a copy of the foregoing on counsel of record for the above named parties by placing same in the U.S. Mail postage prepaid and properly addressed, and if the party being served is a registered participant in the CM/ECF System for the **United States District Court, Middle District of Alabama**, notice of the foregoing will also thereby be made electronically on all for the counsel of record.

Dated this 20<sup>th</sup> day of June, 2006.

/s/ David C. Hilyer  
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